REMARKS

The application has been amended to distinguish the invention over the cited prior art, and to place the application, as a whole, into a *prima* facie condition for allowance. Care has been taken to avoid the introduction of any new subject matter into the application as a result of the foregoing amendments.

Applicant confirms that claims 7 – 10 now stand withdrawn from consideration, as being drawn to a non-elected invention.

Claims 1 - 6 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Lilja et al., U.S. 5,547,322 in view of Glynn, U.S. 3,179,969. Applicant respectfully traverses the Examiner's substantive basis for rejection of the claims.

The Lilja et al., U.S. 5,547,322 reference discloses a fastening member for fastening a net or the like to a carrier, such as a post. The fastening member comprises a holder portion 2 which includes a transverse wall 12, and two transition regions 13 at the ends of wall 12, which transition regions 13 terminate in transversely directed surfaces 10; and an anchorage portion 1, which includes shanks 11. Transverse wall 12 has a constant thickness, and that thickness is not reduced as the wall merges into transition regions 13, which then thicken substantially at the transition into the inwardly projecting portions to which transversely directed surfaces 10 are adjacent. Further, wall 12 is substantially greater in length than transition regions 13, to define a relatively squat, wide shape to the fastening member, as reflected in the shape of the interior accommodation passage 3.

The Glynn, U.S. 3,179,969 reference discloses a member for connecting a windshield wiper blade to the wiper arm. A hole 6 having "downwardly" pointing angular teeth 14 is disposed in the wiper blade pressure member 3. Lug 5 has a face 9 from which prongs 18, having prong teeth 20, extend downwardly. Lug 5 has a through-hole which receives the pin from the wiper arm. By pushing prongs 18 into hole 6, prong teeth ride along the edges of angular teeth 14, causing prongs 18 to be deflected inwardly toward one another, until the respective barbs of teeth 14 and prong teeth 20 pass one another, permitting prongs 18 to move outwardly toward their original undeflected positions. The bending or deflection of prongs 18 occurs at some

point at or just below face 9. Lug 5 is effectively rigid. Once lug 5 has been installed it **cannot** be removed, without having to, e.g., **destr y** the pressure member, or somehow insert a prying tool to move the prongs, because no part of the prongs is exposed, when lug 5 is in place. The prongs 18 emanate from the face 9 at positions moved laterally inwardly from the opposed ends of the lug 5. This is required because the lug 5 is held in place by the gripping force exerted "vertically" between the face 9, on one side, and the upwardly facing surfaces of prong teeth 20. If there were no "overhang" at the opposite ends of lug 5, there would be nothing to keep lug 5 from sinking into the hole, thus providing an insecure connection, which would be inappropriate in the environment of a connection for a windshield wiper.

Applicant respectfully traverses the Examiner's cited combination of references as being an improper combination of references. Applicant respectfully traverses the Examiner's purported combination of references, and respectfully submits that the proposed combination of the Lilja et al. and Glynn references is inappropriate, and against the teachings of the respective references.

Two or more references may not be combined to support an assertion of obviousness of a claimed invention absent a teaching or suggestion to their combination. Further, two or more references may not be properly combined, if to do so would frustrate the functions, goals or purposes of one or more of the respective references.

As mentioned previously, the Lilja et al. reference discloses a fastening member for affixing a net or the like to a post, which fastening member is clearly intended to be readily removable. However, as further mentioned previously, the Glynn reference is directed to a fastener for affixing a windshield wiper to a wiper arm, which fastener is clearly not intended to be readily removable, as the device must be destroyed or somehow pried off of the wiper pressure member, because the resilient legs, which effect the fastening function, are hidden from view and access, once the fastener has been affixed to a wiper pressure member.

As such, Applicant respectfully submits that the Lilja et al. and Glynn references may not be properly combined, in view of the divergent, indeed, directly opposite

teachings of the respective references. One of ordinary skill in the art, seeking to modify a removable fastener member for affixing a net to a post, would not be prompted to look to a non-removable fastener for affixing a wiper pressure member to a wiper arm. Therefore, Applicant submits that the rejection of the claims, based upon the combination of the Lilja et al. and Glynn references is inappropriate, and should be withdrawn, on the basis of the inappropriate combination of the cited references.

Even if the Lilja et al. and Glynn references could properly be combined, which Applicant disputes, the resultant structure would still fail to teach or suggest applicants invention of amended claim 1. Specifically, the combination, as set forth by the Examiner would not result in a holding device, having a transverse section and two elastically movable support units, in which each of the elastically movable support units (8, 8a, 8b, 15) has at least one area which has a thickness which is less than a minimum thickness of the transverse section. This ensures that during manipulation of the holding device, bending occurs outside of the transverse section (because the transverse section is at all places thicker than an area of reduced thickness in the support units (and under force bending will occur first in the support units), thus ensuring the dimensional stability of the transverse section. In the Lilja et al. reference, as the "transverse section" in that device has a thickness which is constant, and which is the same or less than in the adjacent "transition regions", and given the short length of the transition regions relative to the length of the transverse section, upon application of force, the transverse section will bend along its length, especially at the center point of the span of the transverse section. This would not be a "dimensionally stable" transverse section, in the context of the present application. Therefore, Applicant submits that the cited references are incapable of teaching or suggesting Applicant's invention of amended claim 1.

Applicant respectfully submits that the Examiner's assertion, re prior claim 5, that to modify the apparatus of Lilja et al., to make the transverse section thicker than the support units, would be obvious in view of Glynn, is incorrect for two reasons. First, because the Lilja et al. and Glynn references are not properly combinable for the reasons described above, the teachings of Glynn are not transportable to the Lilja et al.

reference. Second, thickening of the transverse portion of the Lilja et al. reference, as purportedly taught by the Glynn reference, would compromise its function, as it is the transverse portion of the Lilja et al. device that has to do the bending, because the transition portions of that device are too short and thick to accommodate the overall flexing required to permit the shanks 11 to move toward one another to fit into the aperture in the post in which the device is to be inserted. If the transverse portion were to be thickened, relative to the transition portions, there would be no place for the flexing to occur. Thus, regardless of whether these references were otherwise combinable, the Lilja et al. reference cannot be thickened in its transverse region, as that would defeat the function of that device.

Furthermore, Applicant submits that the Examiner's rationale for thickening the transverse portion purportedly as taught by Glynn, "in which the transverse section 5 defining the lug is of greater thickness than the resilient securing section 18 so as to better secure the lug" is not quite correct and inapplicable to the Lilja et al. reference or Applicant's invention. In Glynn, the securement is accomplished solely by the relatively short, thin prongs 18. The relative thickness of lug 5 has nothing to do with how well prongs 18 hold lug 5 in place. There is nothing in Glynn that suggests that lug 5 has greater thickness for any reason other than to provide sufficient mass, to enable the placement of the orifice 8 in the midst thereof, for receipt of the pin of supporting arm 4, a function which is not required or contemplated in the devices of either the Lilja et al. reference or Applicant's invention of amended claim 1.

Therefore, the structure and relative thicknesses of the transverse and transition sections of Applicant's device as recited in amended claim 1 is not taught by the purported combination of the Lilja et al. and Glynn references.

Accordingly, Applicant respectfully submits that claim 1, as amended, patentably distinguishes over the cited prior art, and reconsideration and withdrawal of the rejection of claim 1, and allowance thereof, are respectfully solicited.

Inasmuch as dependent claims 2 – 6 merely serve to further define the subject matter of claim 1, which itself should be deemed allowable, claims 2 - 6 likewise should be deemed to patentably distinguish over the cited Lilja et al. and Glynn references, as

well as all the other prior art of record. Therefore, reconsideration and withdrawal of the rejections of claims 2 – 6, and allowance thereof, are respectfully solicited.

Applicant additionally submits for the Examiner's consideration, new claim 11, which Applicant submits likewise patentably distinguishes over the cited prior art. Consideration and allowance of claim 11 are respectfully solicited.

Applicant respectfully requests reconsideration and allowance of the application as a whole, including all of claims 1 – 6 and 11.

Should anything further be required, a telephone call to the undersigned at (312) 456-8400 is respectfully requested.

Respectfully submitted,

GREENBERG TRAURIG

Dated: April 16, 2004

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on April 16, 2004.

Douglas B. Teaney